

Mail Stop Interference
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Paper 1
Filed: December 23, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Advanced Research and Technology Institute, Inc.
Junior Party
(U.S. Patent Applications 08/948,764, 08/955,572 and 10/027,199).

v.

Immunex Corporation
Senior Party
(U.S. Patent 7,211,259),

Patent Interference No. 105,662 (MPT)
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-
3 identified parties. Details of the application(s), patent (if any), reissue application

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

(if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

Part B. Judge managing the interference

Administrative Patent Judge Michael P. Tierney has been designated to manage the interference. Bd. R. 104(a).

Part C. Standing order

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for **2:00 p.m.** on **February 10, 2009** (the Board will initiate the call).

No later than four business days prior to the conference call, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

1 **Part E. Identification and order of the parties**

2 Senior Party

3 Named Inventors: Raymond G. Goodwin, Seattle, WA

4 Craig A. Smith, Seattle, WA

5 Involved Patent: U.S. Patent No. 7,211,259, issued May 1, 2007, based on
6 U.S. Application 08/910,449, filed August 5, 1997.

7 Title: 4-1BB Polypeptides and DNA Encoding 4-1BB
8 Polypeptides

9 Assignee: Immunex Corporation

10
11 Junior Party

12 Named Inventor: Byoung Se Kwon, Carmel Indiana

13 Involved Applications:

14 i) U.S. Application 10/027,199, filed December 20, 2001, entitled
15 Receptor and Related Products and Methods;

16 ii) U.S. Application 08/955,572, filed October 22, 1997, entitled
17 Human H-4-1BB Protein;

18 iii) U.S. Application 08/948,764, filed October 10, 1997, entitled
19 Human Receptor H4-1BB Polypeptides and Methods For Use.

20 Assignee: Advanced Research and Technology Institute, Inc.

21
22 The senior party is assigned exhibit numbers 1001-1999. The junior party is
23 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior
24 party is responsible for initiating settlement discussions. SO ¶ 126.1.

1 The parties are accorded the following benefit for Count 1:

2 Immunex Corporation

3 i) U.S. Application 08/236,918, filed May 6, 1994.

4 ii) U.S. Application 08/060,843, filed **May 7, 1993.**

5

6 Advanced Research and Technology Institute Inc.:

7 i) U.S. Application 08/461,652, filed June 5, 1995;

8 ii) U.S. Application 08/122,796, filed **September 16, 1993.**

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Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference,
see SO ¶ 106.1.1:

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(U.S. Patent 7,211,259),

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Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Michael P. Tierney/
Administrative Patent Judge

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Attorney for Immunex Corporation:

Immunex Corporation
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Enc:

Copy of STANDING ORDER
Copy U.S. Patent 7,211,259
Copy of claims of 08/948,764, 08/955,572 and 10/027,199

Revised 3 January 2006